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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/529,638	06/05/00	CARLBARK	0 000500-252

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EXAMINER

ANDERSON, C

ART UNIT	PAPER NUMBER
3761	6

DATE MAILED: 11/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/529,638

Applicant(s)

CARLBARK ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, two belt-portions 7 and 8 which are able to be fastened together around a wearer's waist must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### *Specification*

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "characterized in that the stiffness that varies has an extension in the longitudinal direction that essentially coincides with the length of the belt." It is unclear how the stiffness has an extension. Does the applicant intend to claim a stiffness that extends the length of the belt in the longitudinal direction?

Claim 4 recites the limitation "the two stiffened belt-portions" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether the claim refers to the two belt-portions of claim 1, or two different, stiffened belt-portions.

Claim 5 recites the limitation "the central part" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "a cross-section" in line 4. It is unclear whether this cross-section is in the longitudinal direction or the cross-direction.

Claims 5 and 6 recite the limitation "at least one edge part" in lines 5 and 1. It is unclear whether the claims refer to the longitudinally extending edge-part of claim 3, or an edge-part extending in the cross-direction.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamamoto et al. (5,607,416).

With regard to claim 1, Yamamoto discloses an undergarment, as shown in figure 1, comprising an absorbent part 1 and a belt portion 2. The belt portion 2 is directly connected to the absorbent part 1 and extends longitudinally from the absorbent part 1 in either direction. Fastener means 13a and 13b attach the ends of the belt portion 2 around the waist of the wearer. The belt portion 2 comprises two narrow sheets 2a and 2b, with elastic members 12 attached to the sheets, running parallel to each other in the longitudinal direction of the belt portion 2. The sheets may be a fabric

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with the elastic members 12 woven into the fabric, as disclosed in column 4, lines 31-33. The fabric parts of the belt portion 2 are inherently of different stiffness than the elastic parts.

With regard to claim 2, the two parts of different stiffness, the fabric sheet 2a and the elastic members 12, are mutually adjacent, as shown in figure 1.

With regard to claim 3, the longitudinally extending elastic members 12 are located in the central part of belt portion 2, with the fabric sheet 2a at the longitudinally extending edges, as shown in figure 1.

***Allowable Subject Matter***

Claims 4-8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

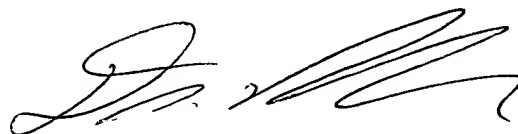
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 5,706,524 and 6,086,571 pertain to absorbent articles with waistbands that vary in stiffness.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

A handwritten signature in black ink, appearing to read 'D. Ruhl', with a stylized flourish extending to the right.

**DENNIS RUHL**  
**PRIMARY EXAMINER**